

## CHAPTER 4

### HAZARDOUS WASTE MANAGEMENT PROCESSES

#### OVERVIEW

Public participation is an integral part of the DTSC Hazardous Waste Management Program, by law, regulation, and policy. Public participation is required in the permit decision-making process and in particular during the:

- o Review of permit applications;
- o Issuance of draft permit decisions;
- o Permit modification process;
- o Planning and implementation of corrective action;
- o Approval of closure and post-closure plans; and
- o CEQA environmental assessment process for the permit action.

Public participation ensures that there is two-way communication between the public and DTSC decision-makers. It ensures that public concerns and input are considered in the final decision. Public participation assumes that persons in a democracy have the right to know about the activities of public agencies and to participate in those activities if they so choose. It also assumes that agencies can benefit from public input, and thereby make better decisions.

The timing of public participation activities is critical to the success of the program. Early and meaningful involvement will also enhance agency credibility with the public, lessening the likelihood of public outrage that occurs if a community feels it has been excluded from the agency decision-making process. State and federal laws and regulations require this early public involvement.

In summary, the public participation process is initiated early and continues throughout the life of a facility, even into post-closure.

The following subsections provide specific guidance and authority for public participation in the DTSC hazardous waste management process.

## STATUTORY AND REGULATORY AUTHORITIES

### RCRA

The Resource Conservation and Recovery Act (RCRA) (42 U.S.C. ' 6901 et seq.) was first enacted by the U.S. Congress in 1976 as an amendment to the Solid Waste Disposal Act. Since then, RCRA has itself been amended several times, among the most significant being the 1984 amendments, also referred to as the Hazardous and Solid Waste Amendments (HSWA). RCRA defines hazardous wastes and provides guidelines for their management from their creation to ultimate disposal (cradle to grave). RCRA regulates the generation, transportation, treatment, and disposal of those wastes it defines as hazardous. These guidelines are contained in Subtitle C of the Act.

### 40 C.F.R.

The regulations promulgated by the U.S. Environmental Protection Agency (U.S. EPA) implementing RCRA, Subtitle C, are outlined in Title 40 Code of Federal Regulations (40 CFR, parts 261-266 and 268-270). Part 270 addresses the hazardous waste permit program requirements. Permit modification requirements are found in 270.42. **Public Participation requirements for permitting are found in 40 CFR Part 124.**

**[NOTE: U.S. EPA published the RCRA Public Involvement Manual, September 1996. This guidance document lists both required (40 CFR) and suggested public participation activities for RCRA permitting actions.]**

### National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) (42 U.S.C. Sec. 4321 et seq.) establishes an environmental review process that is separate from but similar to that under CEQA. However, NEPA applies only to federal agencies. A project is subject to NEPA when it requires permits, entitlements, or funding from a federal agency; when it is jointly undertaken with a federal agency; or when it is proposed on federal land.

### Hazardous Waste Control Law (HWCL) (Chapter 6.5)

Hazardous Waste Control Law (HWCL), (1972) is California's statute regulating the management of hazardous waste. Health and Safety Code, Division 20, Chapter 6.5 (HSC ' 25100 et ) HWCL sets forth definitions of hazardous wastes and procedures for their safe handling, transportation, treatment and disposal. Generally, the categories of substances considered hazardous are broader in HWCL than RCRA.

Although RCRA and HWCL, and their respective implementing regulations are similar,

both form the basis of the DTSC public participation program. However, not all the requirements for various permitting activities are identical. In all cases, DTSC policy is to follow the most stringent or comprehensive requirements.

## **The Tanner Act**

(HSC ' 25199), also known as the Tanner Act (AB 2948, 1986), requires counties to prepare, for DTSC approval, hazardous waste management plans. These plans must estimate the volume and type of hazardous waste produced within the county, identify the capacity to treat and dispose of these wastes and establish siting criteria for hazardous waste treatment, storage and disposal (TSD) facilities. The Tanner Act prescribes specific public participation activities, which must be carried out during the local land use permit process for siting new or expanding off-site commercial TSDs.

## **Title 22, CCR**

Title 22, California Code of Regulations (CCR) (Div. 4.5, Environmental Health Standards for the Management of Hazardous Waste) details the regulatory requirements for the implementation of hazardous waste management statutes contained in the Health and Safety Code. Title 22, CCR Div. 4.5, Chapters 20 and 21 list mandatory public participation requirements as part of permitting and closure decision requirements. (See Title 22, CCR, ' ' 66270.1(c)(6)(A), 66270.42, 66271.5, 66271.19).

## **CEQA**

California Environmental Quality Act (CEQA), (1970, amended in 1993). Requires state and local agencies to disclose and consider the environmental implications of their decisions, and to avoid or reduce the significant environmental impacts of their decisions whenever it is feasible to do so. (Public Resources Code, Section 21000 et seq.)

The State CEQA Guidelines, developed by the Office of Planning and Research and adopted by the Secretary for Resources, are binding on all state and local agencies (Title 14, CCR, Section 15000 et seq.). CEQA and the State CEQA Guidelines set out numerous public participation requirements.

## **ROLES AND RESPONSIBILITIES**

Public participation is a required component of the Hazardous Waste Management (HWM) permit determination and closure plan processes. Therefore, all DTSC staff members share responsibility for public participation. The Public Participation Specialist (PPS) serves as both an advisor and overseer of public participation activities during the permit determination, closure plan approval, and corrective action processes. The PPS and Project

Manager meet early in the project and agree to specific roles and responsibilities for the required public participation activities.

The Project Manager manages and oversees the technical aspects of a permit project, and provides public participation support. The PPS makes all decisions regarding public participation activities on a permit project in conjunction with the Project Manager, and ensures that those activities are carried out. This responsibility may be delegated to the Project Manager when public participation resources are inadequate.

### **Public Participation Supervisor**

The Public Participation Supervisor is responsible for:

- " Ensuring that all applicable federal and state laws, regulations, and directives regarding public involvement in hazardous waste management are executed at all facilities in California;
- " Advising DTSC HWM managers (Seniors, Branch Chiefs, Division Chiefs) in matters pertaining to public participation;
- " Managing the Public Participation Program workload and budget for his/her unit, and providing supervision and support; and
- " Managing the administrative support for their unit.

### **Public Participation Specialist**

The PPS works closely with each Project Manager and is available to:

- o Identify and plan appropriate public participation activities and techniques;
- o Monitor and initiate public participation activities being conducted and serve as the primary liaison between members of the public and DTSC;
- o Serve as an advisor to Seniors and Branch Chiefs on issues of community concern and involvement;
- o Elevate critical public participation issues through the Public Participation Supervisor;
- o Ensure that all public participation requirements are being met; and,

- o Provide direct input and oversight, as appropriate, to ensure that the community outreach program is effective in achieving the intent of RCRA public participation provisions.

**NOTE: The PPS may be assigned to coordinate all public participation activities at the more complex and controversial facilities, while the Project Manager has review and approval responsibilities on technical activities. In all cases, the PPS has final review and approval for completeness and quality of public participation activities and documents, while the Project Manager is responsible to ensure all technical information in the public participation document is accurate.**

## **Project Manager**

The Project Manager manages and oversees all technical aspects of a permit project. In addition, the Project Manager is responsible to:

- o Coordinating with the PPS to ensure that appropriate public participation requirements of RCRA, HSC Chapter 6.5, CEQA, 40 CFR, CCR and DTSC policy are fulfilled;
- o Being familiar with all required and optional public participation activities. The Project Manager must also be prepared to initiate and manage public participation activities throughout the permit determination or closure plan approval processes if PPS resources are unavailable; and,
- o Consulting regularly with the PPS and including him/her in all technical aspects of the project in which the public may have interest.

## **Facility**

The facility owner/operator may assist DTSC in conducting public participation activities appropriate for the level of community interest during the permit determination, corrective action or closure plan approval process.

## **INTRODUCTION**

RCRA establishes initial directives and guidelines for regulating and managing hazardous waste from generation to disposal. RCRA requires that safe and secure procedures be used in storing, treating, transporting, and disposing of hazardous waste.

- o **RCRA Waste:** Hazardous waste which the federal government regulates or

has authorized DTSC to regulate.

- o **Non-RCRA Waste:** Hazardous waste regulated by the State but not by the federal government. Also referred to as California hazardous waste.
- o **RCRA-Exempt:** Hazardous waste specifically exempted from federal regulation under RCRA. Household hazardous waste is an example of a type of RCRA-exempt hazardous waste.

California has adopted a five-tiered approach to permitting facilities that are authorized to manage either RCRA or non-RCRA wastes. The tiers are:

1. Full Permit
2. Standardized Permit
3. Permit by Rule
4. Conditional Authorization
5. Conditional Exemption

Only the Full Permit (Tier 1) and the Standardized Permit (Tier 2), have public participation requirements.

DTSC also conducts other hazardous waste facility actions that have either mandatory or recommended public participation activities. These are:

Emergency Permits  
Research, Demonstration and Development Permits  
Closure Plan Approvals  
Post Closure Permits  
Permit Appeals  
Permit Modifications  
Temporary Authorizations  
Corrective Action Activities  
Variances

The remainder of this chapter is organized in the following way:

#### Tiered Permitting Activities with Public Participation Requirements

- Tier 1 – Full Permit
- Tier 1 – Incinerator, Boiler and Industrial Furnace
- Tier 2 – Standardized Permit

## Other Permitting Activities with Public Participation Requirements

Emergency Permits  
Research, Demonstration and Development Permits  
Closure Plan Approvals  
Post Closure Permits  
Permit Appeals  
Permit Modifications  
Modifications to Closure Plans  
Temporary Authorizations  
Corrective Action Activities  
Variances  
RCRA Compliance and Facility Violations  
Small Site Cleanups

## **TIERED PERMITTING ACTIVITIES WITH PUBLIC PARTICIPATION REQUIREMENTS**

### **TIER 1 - FULL PERMIT**

A full permit is required at facilities to treat, store, or dispose of RCRA-regulated and selected non-RCRA hazardous wastes. A full permit can be granted to a new facility, a facility applying to significantly modify an existing permit, or a facility currently operating under Interim Status (Title 22 California Code of Regulations). A full permit requires public participation activities, however, the variety and frequency of activities will be determined by the level of community interest and public involvement is critical to an effective public participation program during the permit decision-making process.

The full permitting decision-making process is comprised of a number of steps. Each step has accompanying public participation requirements. This section divides the process into the following steps with accompanying public participation requirements:

- " Pre-application
- " Application submittal and agency review
- " Draft permit preparation, public review
- " Response to Comments and final permit decision

Under the RCRA Expanded Public Participation Rule (40 CFR Section 124.31, December 1995) later incorporated into California regulation (CCR Section 66271.31 et seq.) earlier and expanded public participation is required in the permit decision-making process. Specific requirements for all new RCRA permit applications and for RCRA permit renewals are prescribed for the pre-application and application submittal steps as follows:

## Pre-application

The following are required for all applicants submitting a Part B Permit Application or permit renewal applications (with changes equivalent to a Class 3 permit modification) submitted after June 11, 1996.

- " **Pre-application public meeting:** The applicant must hold a public meeting to inform the community of proposed hazardous waste management activities and to open a dialogue with the community. A sign-in sheet shall be available at the meeting for attendees to voluntarily provide their name and addresses for the facility mailing list for future communication. [40 CFR ' 124.31 (b); Title 22 ' 66271.31 (b)]

At the meeting, the permit applicant covers the following topics, providing the information is available:

1. Type of facility the company proposes to operate;
2. Location of the proposed facility or unit;
3. The general processes involved;
4. The wastes to be generated and managed;
5. The proposed waste minimization and pollution prevention plans;
6. Expected transportation routes; and
7. Procedures and equipment proposed for preventing and responding to accidents or releases.

The DTSC Project Manager is encouraged to attend the pre-application meeting, but is not an active participant. To the extent practical, a pre-application public meeting may be combined with a new facility-siting meeting (Tanner Siting Law), but the facility should clearly distinguish for meeting attendees, the pre-application public meeting activities from those required under the Tanner Siting Law.

- " **Public notice of the pre-application public meeting:** A public notice announcing the pre-application public meeting must be placed as a display ad in a newspaper of general circulation in the county where the facility is proposed



to be located. DTSC (as determined by the Public Participation Program) may direct the facility to place notices in additional newspapers in adjacent counties if DTSC determines broader outreach is necessary to inform the affected public. The public notices must be written in a language appropriate to the affected community and appear **at least 30 days prior to the meeting**. (Consideration should be given toward placing the notice on the Internet.) Pursuant to Title 22 ' 66271.31 (d); 40 CFR' 124.31 (d), the notice must contain:

- ! Date, time and location of the meeting;
  - ! Brief description of the purpose of the meeting;
  - ! Brief description of the facility and proposed operations including the address or a map;
  - ! A statement encouraging people to contact the facility at least 72 hours in advance if they need special access to participate in the meeting (such as language interpreters); and
  - ! Name and phone number of a facility contact person.
- " **Broadcast media announcement:** The applicant must broadcast the public notice at least once on one local radio or television station. The applicant may employ another medium, aside from television or radio with prior approval of DTSC. This must be a paid advertisement, not a public service announcement. [40 CFR ' 124.31 (d) (1) (iii); Title 22 ' 66271. 31 (d)(1)(c)] (See page #)
- o **Visible and accessible sign:** The applicant shall post a clearly marked notice of the pre-application meeting, including all components of the newspaper notice, at or near the facility or proposed facility location. The sign must be readable at the nearest point at which the public would pass by the facility.
- " **Meeting summary:** The applicant will provide a summary of the pre-application public meeting, a list of attendees and their addresses, and copies of any written comments. [40 CFR ' 124.31 (c); Title 22 ' 66271.31 (c)]
- o **Additional activities:** If interest appears to be high from a large turnout at the pre-application public meeting, or other indicators demonstrate a need, DTSC may choose to hold its own meeting, develop its own fact sheet(s), and conduct other activities during the pre-application phase. The PPS, in consultation with the Project Manager, determines if DTSC will carry out public participation

activities before a permit application is received.

## Application Submittal and Agency Review

The following requirements apply to all new RCRA Part B applications and to all permit renewals (regardless of whether the renewal proposes changes in the permit).

### Public Participation Requirements of Applicant:

- " **Community Profile:** A Community Profile describing the community and assessing potential community concerns will be prepared by the applicant when the permit application is submitted. For existing facilities seeking permit renewal, the PPS may waive this requirement if sufficient information about the community already exists. (DTSC policy)

### Public Participation Requirements of DTSC:

- " **Phone log:** The DTSC Project Manager maintains a phone log throughout the project. (DTSC policy)
- " **Document inquiries:** All inquiries concerning the project will be documented and made part of the administrative record. (DTSC policy)
- " **Approve Community Profile:** The PPS coordinates with the facility in the preparation of the Community Profile and provide guidance as needed. The PPS approves the final Community Profile and determine the need for additional community assessment.
- " **Develop facility mailing list:** A mailing list for new facilities should include names from the sign-in sheets at the pre-application meeting as well as the DTSC mandatory mailing list, contiguous property owners, those who express interest, and other potentially affected persons. Mailing lists should be developed as part of the community assessment process.
- " **Public notice:** DTSC must mail a public notice to the facility mailing list and to appropriate units of State and local government that a Part B Application has been submitted to DTSC and is available for review. The notice shall be published within a reasonable time after the application is received. In most cases, 30 to 60 days is adequate to prepare the notice and have documents ready for public access. The public notice shall include [Title 22, CCR Section 66271.32]:

- ! Name, address and telephone number of the permit applicant's contact person;
  - ! Name, address, and telephone of DTSC contact person;
  - ! Location where the Permit Part B Application and supporting documents can be viewed and copied;
  - ! Brief description of the facility and proposed operations, including the address or a map on the front page of the notice;
  - ! Date the application was submitted.
- " **Information repository:** DTSC shall establish an information repository, containing copies of documents relating to the permit application at the DTSC office located closest to the affected facility. The permit applicant provides the documents for the repository to DTSC. If the PPS, in consultation with the DTSC Project Manager determines the level of public interest warrants, DTSC will require that the applicant establish and maintain a repository near the facility in a location convenient to the community. The facility may determine the community-based repository location, but if the location presents access problems, DTSC will select a more appropriate location. [Title 22 ' 66271.33 (b)]

Additional public participation activities that may be required by the PPS in consultation with Project Manager based on community interest.

- o **Community Survey:** A survey may be mailed to persons living in the vicinity to the facility to further assess community interest.
- o **Public Participation Plan:** After initial community assessment (Community Profile, surveys, meetings), or at a later stage in the process, if the PPS determines that community interest is high, a public participation plan (PPP) may be developed for a permit determination project. As part of the development of a Public Participation Plan, the PPS and DTSC Project Manager conduct community interviews to identify issues and concerns, and to plan appropriate public participation activities.
- o **Fact sheet, meeting, availability session/open house:** The PPS may determine that one or more of these activities may be helpful to address concerns, and to inform and involve the community. If a notice or fact sheet is

prepared, it should be placed on DTSC's web site.

## **Draft Permit (or denial) Preparation and Public Review**

The following Public Participation activities are required during the draft permit or draft permit denial public review and comment process. **The same activities are required for renewal of an existing permit.**

- " **Mailing list:** At the time of public review, the mailing list is updated.
- " **Information repository(ies):** The draft permit, draft permit denial or draft permit renewal, and supporting documents should be added to the information repository prior to the beginning of the public review and comment period. [40 CFR ' ' 124.33, CCR S 270.30 and 271.33]
- " **Fact sheet:** A fact sheets describing the draft permit, draft permit denial or draft permit renewal is sent to the updated project mailing list. (Ensure the fact sheet is placed on DTSC's web site.) The following information must be included in the fact sheet: [40 CFR' 124.7; CCR 66271.7]
  - ! Brief description of the facility or activity, which is the subject of the draft permit, denial or renewal;
  - ! Type and quantity of wastes covered by the draft permit, denial or renewal;
  - ! Brief summary of the basis for the draft permit, denial or renewal conditions including appropriate references to supporting statute and regulation and references to administrative record requirements of CCR 66271.8; or a brief summary of the reason for the draft permit denial, if applicable;
  - ! Reasons why any requested alternatives to required standards are or are not justified;
  - ! Description of procedures for making a final permit decision, renewal or denial decision;
  - ! Beginning/ending dates of public comment period and where comments should be sent;
  - ! Announcement of a public hearing, if one is planned, or procedures for

requesting a hearing and the nature of the hearing, if one is not planned;

- ! Any other procedures by which the public may participate in the final decision (i.e. a public availability session, review of the CEQA documents, repositories);
- ! Name and phone number of DTSC Project Manager and PPS.

Fact sheets must meet the basic regulatory requirements, but be written as free of technical jargon as possible. In all appropriate languages for the community, and at a reading level understandable by the typical resident of the community.

" **Public notice:** A public notice to announce the proposed action and public comment period must be placed in a newspaper of general circulation [CCR Section 66271.9]. DTSC policy requires the public notice be placed as a display ad and be written in a language appropriate to the affected community (it must also be placed on DTSC's web site). CCR Section 66271.9 states the notice shall include:

- ! Notification that a draft permit, permit renewal or denial has been prepared and is available for public review and comment (minimum 45 days for draft permit, draft permit renewal, or draft permit denial) and procedures for submitting comment;
- ! 30-day advance notice of a public hearing, if one is planned, and the time, date, and location of the hearing. If one is not planned, include procedures for requesting a hearing;
- ! Name and address of the DTSC office preparing the draft permit, renewal or denial, and of the facility applicant;
- ! Brief description of the business conducted at the facility and the nature of the draft permit, renewal or denial;
- ! Location of the administrative record and public repositories, hours of availability, and a statement that all data submitted by the applicant is available as part of the administrative record. (The applicant may claim some information confidential or proprietary. DTSC will follow established policy in independently supporting or denying such claims.);

**NOTE:** A fact sheet may be used as the public notice to the mailing list if all required elements of a public notice specified in CCR Section 66271.9 are included in the text,

and the dates of the public comment period, location to send comments, and announcement of a public hearing (or how to request one) are in a box on the front page.

- " **Compliance with CEQA:** Public notice and public review and comment provisions of CEQA may be incorporated into the similar process for the draft permit. For example, the public notice and fact sheet may announce a comment period and hearing on both the draft permit, renewal or denial, and the accompanying CEQA documentation. **In some instances public opposition is high, or the draft permit, renewal or denial, and the draft CEQA document are complex (i.e. an EIR). Under these circumstances, the PPS in consultation with the Project Manager may hold the CEQA public comment period and hearing prior to and separate from the draft permit, renewal or denial process.**
- " **Paid radio ad:** A paid radio ad must be used to advertise a public comment period and hearing, if one is held, for a draft permit, renewal or denial. [Title 22 CCR ' 66271.9 (c)(2)(B) and ' 66271.11 (a) (4)]
- " **45-day public comment period:** A 45-day public comment period must be conducted to receive comments from the public on the draft permit or renewal. A 45-day comment period is required for a draft permit denial. [Title 22 ' 66271.9 (b) (1); 40 CFR ' 124.10 (vi) (3) (b)]
- " **Public hearing:** A public hearing will be conducted if sufficient public interest exists or upon written notice of opposition to the proposed permit. DTSC may also hold a hearing to clarify one or more issues involved in the permit decision. Any person may submit written or oral comments at the hearing. Reasonable time limits for comments shall be established. This may vary depending on the number of people wishing to comment [Title 22 ' 66271.11; 40 CFR ' 124.12]
- " **Transcript:** A taped recording or written transcript of the hearing is required and shall be made available to the public [40CFR ' 124.2, Title 22 66271.11 (d)].
- " **Monitor community interest:** Community interest/concerns will be monitored throughout the project (DTSC policy).
- " **Inform other agencies:** DTSC and/or the applicant shall coordinate with other agencies and provide information about the project in a timely manner (DTSC policy)

## Response to Comments and Final Decision

- " **Prepare a response to comments:** A Response to Comments document that addresses comments received during the public comment period will be sent to all commentors and made available to the public. All significant comments, (including oral comments received during the public hearing), related to the draft permit, renewal or denial, and CEQA document shall be responded to. If any provisions of the draft permit, renewal or denial, or CEQA document are changed as a result of consideration of public comment, the changes are identified and reasons for the changes are included in the Response to Comments. [Title 22 ' 66271.16; 40 CFR ' 124.14]
- " **Notice of Final Decision:** The notice of final decision will be sent to commentors and interested parties and should include information on the appeal process [Title 22 ' ' 66271.14, 66271.18; 40 CFR ' ' 124.15, 124.19]. (Consideration should be given toward placing this notice on DTSC's web site.)

Additional public involvement activities may required at the discretion of the PPS in coordination with Project Manager, based upon an of community interest: These activities may include:

- " 60 or 90-day extended public comment period
- " Brief local officials (See page #)
- " An information letter (See page #)
- " A flyer to make an announcement or to update the community of the progress
- " Briefing for those affected by or interested in the decision
- " A workshop
- " An open house
- " Small group meetings

## TIER 1 - INCINERATORS, BOILER AND INDUSTRIAL FURNACE

## OPERATING PERMIT

A hazardous waste incinerator, boiler and/or industrial furnace (BIF) requires a full permit to operate. **An incinerator and BIF permit application requires the same public participation activities as full permit application.** When the level of community interest in the proposed project is high, the PPS, in consultation with the Project Manager may require additional activities.

## TRIAL BURN

One of the requirements of the permit application process for an incinerator or a BIF is for the applicant to conduct a trial burn to demonstrate that the proposed unit meets all of the standards outlined in the draft permit. The trial burn is overseen by DTSC. Specific public participation activities are required to be carried out with the community prior to, during and after the trial burn.

### Public Participation Activities

- F Information repository:** Prior to the trial burn, the information repository established during the permit application process is updated, if necessary, to ensure that it contains general information about the permit application, the draft permit and the proposed trial burn.
- F Pre-Trial Burn public notice:** With the adoption of the Expanded Rule for Public Participation, the public notice requirement for a trial burn is found in both federal and state regulation, and applies to new and existing incinerators, and BIFs. The intent of the notice is to inform the community of the trial burn, not to initiate a comment period on the Trial Burn Plan. Comments on the Trial Burn Plan are received during the public comment period on the draft incinerator or BIF permit.

A public notice must be mailed to the facility mailing list and placed in a newspaper of general circulation (as well as on DTSC's web site) within a reasonable period of time (normally at least 30 days) before the scheduled trial burn, and must contain the following:

- “ Name and phone number of applicant's contact person;
- “ Name and phone number of DTSC Project Manager;
- “ Location where the approved Trial Burn Plan and supporting documents can be reviewed and copied; and



“ Expected time period for commencement and completion of the trial burn.

- F **Post-Trial Burn public notice:** Upon completion of the trial burn, a public notice is sent to the mailing list and placed in a newspaper of general circulation (as well as DTSC's web site) announcing the completion of the trial burn and notifying the public of the location(s) of the repository(ies) where the results can be reviewed. [CCR Section 66270.62 (b) (6)]
- F **Fact sheet:** A fact sheet in a language appropriate to the affected population explaining the trial burn results is strongly recommended, especially if the public interest is high [CCR Section 66271.7].
- F **Community meeting:** A community meeting may also be necessary to review the results of the trial burn with the community that has shown a great deal of interest in the trial burn. (CCR Sections 66271.11 and 66271.12)
- F **Additional requirements:** Upon completion of the trial burn, DTSC modifies the permit conditions to take into account the results of the trial burn. The permit modification process requires specific public participation activities. The public participation activities for permit modifications are delineated in the Permit Modification Sub-Section under "Other Regulated Activities" in this chapter.

## **TIER 2**

### **STANDARDIZED PERMIT**

A Standardized Permit may be granted to a facility that meets State regulations to treat or store most RCRA or non-RCRA hazardous wastes. An application for a Standardized Permit is subject to the same public participation activities as an application for a full permit. The public may be less interested in the application process for a Standardized Permit than a Full Permit because the facility does not handle federally regulated waste (RCRA) and waste streams, and generally poses a lower risk. However, an independent community assessment is completed so that all appropriate and required public participation activities will be conducted, consistent with the level of public interest.

#### **Public Participation Activities**

See requirements for full permit

## **OTHER PERMITTING ACTIVITIES WITH PUBLIC PARTICIPATION REQUIREMENTS**

### **EMERGENCY PERMIT**

An Emergency Permit may be temporarily granted to permitted and non-permitted facility if DTSC determines that there is an imminent and substantial endangerment to human health and/or the environment and there is a need to allow transfer, treatment, storage, or disposal of hazardous waste normally subject to Full Permit requirements. By regulation, there is limited opportunity for public involvement in such emergency permit decisions. However, to the extent practical, the community shall be informed and involved.

#### **Public Participation Activities**

- " **Public notice:** A public notice must be placed in a newspaper of general circulation (and on DTSC's web site) at the time the emergency permit is issued. The public notice must be written in a language appropriate to the affected community and follow the provisions of public notice found in Title 22 ' ' 66270.61 (b) (5) and 66271.9. No comment period is required, due to the determination that an imminent and substantial endangerment exists.
- F **Additional activities:** The PPS in consultation with the Project Manager may determine that additional activities are warranted if community interest is high. These may include:
  - ! Fact sheet
  - ! Public meeting
  - ! Briefings
  - ! Flyers
  - ! Information flyers

### **RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMIT**

These limited-term permits are granted for on or off-site treatment of hazardous waste pursuant to CCR 66270.65. These permits are issued for purposes of demonstrating innovative technologies. The permits are effective for one year and may be renewed up to three times for one-year periods. Research, Development, and Demonstration (RD&D)

permits require the same public participation involvement as for a Full Permit. Due to the limited term of the permits, they may have less community interest however, each RD&D project should be assessed case-by-case basis to determine the level of community interest.

## Public Participation Activities

See requirements for Full Permit.

## CLOSURE PLAN

Closure is the process by which waste facility must undergo after the facility (or a portion of that facility) ceases operation. The facility must remove the hazardous wastes that remain on-site and dispose of them, or take other corrective measures which minimize risk, and decontaminate the on-site equipment and structures. In order to achieve clean closure, the remaining levels of hazardous constituents must not exceed background or levels that are protective of public health and the environment. Typical steps that are conducted during closure of a treatment, storage, or disposal facility include removal of wastes and equipment; confirmation soil sampling; and any soil removal or other cleanup actions that are required to achieve clean closure. Closure of a landfill may entail placement of a final cover or cap without removal of the hazardous wastes.

The hazardous waste facility owner and operator must prepare a Closure Plan that identifies the steps the facility intends to implement in order to complete closure. The Closure Plan is required component of the Part B Application required for all full permit and interim status facilities. The Closure Plan is also a required part of the Standardized Permit application.

## Public Participation Activities

- ! **Community Profile:** A Community Profile (if not previously completed), describing the community and assessing potential community concerns will be prepared by the applicant when work on the project begins. (DTSC policy);
- ! **Public comment period:** A proposed closure plan requires a 30-day public review and comment period;
- ! **Public notice:** Regulations require a newspaper notice of the comment period for the proposed closure plan. In addition, it is DTSC practice and policy to also send the public notice to the facility mailing list. Closure plan regulations do not specify the content of the public notice, but it is DTSC policy to follow the public notice content requirements (with exception of the 45 day period) for the draft permit public notice. (It is DTSC's policy to place this notice on DTSC's web

site as well);

- ! **Information repository:** The draft Closure Plan and related CEQA document must be placed in the repository for public review;
- ! **Public hearing:** In response to a request or at DTSC discretion a public hearing may be held if holding a hearing may clarify one or more issues regarding the draft Closure Plan. Thirty-day notice of the hearing shall be given;
- ! **Additional requirements:** The PPS in consultation with the Project Manager can require additional public participation activities. **For high interest or controversial proposed Closure Plans, DTSC requires all the same public participation activities as for a draft permit, including a fact sheet, hearing, local repositories, and other activities listed under the draft permit process in this manual.**

## POST CLOSURE PERMITS

For a regulated unit, (for example a unit at a land disposal facility), with a Full Permit or Interim Status Document, which plans to close and leave waste in place rather than clean-close, the facility must obtain a **post-closure permit** from DTSC.

### Required Public Participation Activities for Post-Closure Permit

The public participation requirements for a Post-Closure Permit are the same as for a Full Permit pursuant to CCR ' 66271.5 et seq.

## PERMIT APPEAL

Any person who files comments on, and/or participated in, a public hearing for a draft permit or temporary authorization may petition DTSC to review any condition of the permit or authorization decision. Any person who did not file comments and/or attend the public hearing on the draft permit may only petition to review those changes that were made from the draft to the final permit/authorization. **If the petition for review is denied, DTSC must send the notice to deny only to the person(s) requesting review.** Permit appeals require public participation involvement. [66271.18]

## Public Participation Activities

- " **Document inquiries:** All inquiries concerning the project are documented and

made part of the administrative record.

- " **Monitor community interest:** Community interest/concerns will be monitored throughout the project.
- " **Information repository(ies):** Copies of documents related to a permitting appeal shall be placed in the information repository in a location convenient to the community. [40 CFR ' ' 124.33, 270.30] (See page #);
- " **Notice of Final Decision:** The Notice of Final Decision will be sent to commentors and interested parties. [Title 22 ' ' 66271.14, 66271.18; 40 CFR ' ' 124.15, 124.19] (Consideration should be given toward placing this notice on DTSC's web site as well.)
- " **Inform other agencies:** DTSC and the applicant shall coordinate with other agencies and provide information about the project in a timely manner.
- " **Additional activities:** Additional activities may be required at the discretion of the PPS in coordination with Project Manager based upon an assessment of community interest:

## PERMIT MODIFICATION

### DTSC Initiated Modifications

DTSC may initiate a modification to a permit when there are alterations to the facility, new information is received, new standards or regulations are adopted after the permit is issued, or DTSC wishes to alter a compliance schedule.

### Public Participation Activities

All public participation requirements for a draft permit shall be followed for the DTSC initiated Permit Modification, (CCR Section 66711.4 et seq.): including:

- " **Public notice**
- " **Fact sheet**
- " **45-day comment period**
- " **Public hearing**, if one is requested, or if DTSC determines there is significant interest (30 day notice)

- " **Response to comments**
- " **Notice of final modification decision**

## **Permit Modifications Initiated by the Facility (Permittee)**

These permit modifications pertain to changes made to an already existing Full Permit, Standardized Permit or to a facility operating under Interim Status Document until the request for a Full Permit or Standardized Permit has been processed. Depending on the level of change, a permit modification will fall into one of the following categories:

### **Class 1 Modification**

There are two types of Class 1 Modifications [CCR 66270.42 (a)]:

**Class 1 Modification Not Requiring DTSC Pre-Approval:** changes that are minor, usually administrative-type changes.

#### **Public Participation Activities**

- " **Mailing list:** A DTSC mailing list of interested parties, contiguous property owners, elected officials, the DTSC mandatory mailing list, and other agencies/entities as appropriate must be developed and maintained; and
- " Applicant **must notify the DTSC approved mailing list** within 90 days after the change has been put into effect, and within 7 days after notifying DTSC, for each type of Class 1 modification. [CCR Section 66270.42 (a)(1)(B)]

**Class 1 Permit Modification Requiring DTSC Approval:** more-significant administrative changes or minor physical changes to the facility.

#### **Public Participation Activities**

- " **Mailing list:** A mailing list of interested parties, contiguous property owners, elected officials, the DTSC mandatory mailing list, and other agencies/entities as appropriate must be developed and maintained throughout the project. [40 CFR §124.10 (c) (1)(ix)];
- " Applicant **must notify the DTSC approved mailing list** of the proposed modification within seven days after notifying DTSC. [CCR 66270.42 (a) (1) (B)]

- " **Public notice:** Within seven days of submitting the request to modify the permit to DTSC, the applicant must publish a public notice describing the specifics of the modification. The notice must be placed in a newspaper of general circulation as a display ad (legal notice with PPS approval), and in language appropriate to the community. The content of the public notice shall include:
- " Name and address of facility;
- " Changes being made and explanation of need for changes;
- " Changes are a Class 1 modification pursuant to 66270.42;
- " Name and phone for facility and DTSC contact;
- " Statement that any person may request DTSC review any Class 1 Modification.

**Note: There is no public comment period for a Class 1 modification, only notification the modification has occurred or has been applied for.**

**Class 2 Modification: (prior DTSC approval required)** changes which are more substantive than Class 1 modifications but do not substantially alter the facility's design or management practices. For example, minor changes in the volumes or types of wastes handled, implementation of new technologies or regulatory requirements.

Public Participation Activities:

Class 2 Modifications Public Participation Activities **Conducted By Permittee** under CCR ' 66270.42 (b):

### **Public Participation Activities**

- " **Public notice.** A public notice to announce the proposed action and public comment period must be placed as a display ad (DTSC Policy) in a newspaper of general circulation **and** shall be mailed to the DTSC approved facility mailing list. (It is also DTSC's policy to place the notice on DTSC's web site.) The public notice must be written in a language appropriate to the affected community. The notice shall:
  - ! Be published and mailed within seven days before or after submission of the modification request to DTSC;

- ! Describe the modification request;
- ! Announce a 60-day comment period and the name and address of the DTSC Project Manager to whom comments should be sent;
- ! Give the location of local repositories where copies of the permit modification request and supporting documents can be viewed and copied;
- ! Announce the time, date, and location of a public meeting to be conducted by the permittee;
- ! Include the statement: **Permittee's compliance history during the life of the permit being modified is available from the Department of Toxic Substances Control Project Manager (Name) .@**
- ! Include, in coordination with DTSC, a statement regarding CEQA determination and announcing concurrent comment period for the CEQA determination, if DTSC has completed one. (If an environmental assessment is not completed at the time of public notice, then DTSC will have to separately notice the CEQA determination at a later date.) [Title 22 CCR, ' 66270.42 (b) (2)]

" **Community meeting:** The applicant will hold a community meeting to inform the community of the proposed modification no earlier than 15 days after the publication of the public notice, and at least 15 days prior to close of the public comment period. The applicant will announce at the meeting that all comments are to be sent to DTSC. The meeting shall be held at a time and place convenient to the local community. [CCR '66270.42 (b)];

The applicant will announce that the meeting is not a DTSC meeting or a formal public hearing. (NOTE: DTSC staff are encouraged to attend the meeting conducted by the applicant but, as a rule, should not be active participants in the meeting, although they might be called upon to clarify some DTSC procedure.)

The applicant will provide to DTSC a list of all those who registered their attendance at the meeting, for inclusion on the project mailing list.

" **60-day public comment period:** The applicant is required to conduct a 60-day comment period and have all comments sent to DTSC for response. The applicant must obtain a copy of DTSC mailing list. [Title 22 ' 66270.42 (b)]



(2); 40 CFR ' 124.10 (vi) (3) (b)]

## **Class 2 Modification Public Participation Activities Conducted By DTSC**

### **Public Participation Activities**

- " **DTSC mailing list:** DTSC will provide the DTSC facility mailing list to the applicant;
- " **Monitor community interest:** Community interest/concerns will be monitored throughout the project (DTSC policy);
- " **Document inquiries:** All inquiries concerning the project will be documented and made part of the administrative record (DTSC policy);
- " **Inform other agencies:** DTSC and the applicant shall coordinate with other agencies and provide information about the project in a timely manner (DTSC policy);
- " **Comply with California Environmental Quality Act (CEQA):** Concurrently with the permit activity (See chapter 5 for CEQA information);
- " **Response to comments:** A response to comments received during the public comment period will be sent to all commentors and made available to the public. [Title 22 ' 66271.16; 40 CFR ' 124.14]; and
- " **Notice of Final Decision:** The Notice of Final Decision (to grant or deny) the modification request will be sent to commentors and the facility mailing list **within 10 days of the decision** and should include information on the appeal process. [Title 22 ' 66270.42(f)(1)] (Consideration should be made toward placing this notice on DTSC's web site.)

**Class 3 Modification: (Requires prior DTSC approval)** more complex, substantive, and/or controversial changes, which substantively alter the facility's design, operations, or waste management practices. The facility operator is responsible for conducting early public participation activities in the case of facility initiated modifications.

### **Class 3 Modification Public Participation Activities Conducted By Permittee**

- " The permittee shall conduct all the same public participation requirements as for a Class 2 modification.

## Class 3 Modifications Public Participation Activities **Conducted by DTSC**

- " Upon completion of the 60-day comment period initiated by the permittee, DTSC is required to conduct all public participation activities required for a Full Permit pursuant to Title 22, CCR ' 66271.4 et seq. This results in a **minimum of 105 days of public review** (60 + 45) for all Class 3 permit modifications.

## **Modifications to Closure Plans**

If an owner/operator of an interim status facility applies for a modification to an approved closure plan, and the proposed changes are the equivalent of a Class 2 or Class 3 modification, then the modification request is processed according to 66265.112 and the same public participation requirements apply.

If an owner/operator of a facility with a Full Permit or a Standardized Permit applies for a modification to an approved closure plan, Class 1, 2, or 3 permit modification requirements in ' 66270.42 are followed.

## **Temporary Authorization (For a class 2 or class 3 Permit Modification)**

In certain circumstances, and upon request of the permittee, DTSC may grant a Temporary Authorization for Class 2 or Class 3 Modifications without prior public notice. This authorization may be in effect for no more than 180 days (though it may be extended for an additional 180 days).

## Public Participation Activities for a Temporary Authorization **Conducted by Permittee:**

- " **Obtain DTSC mailing list:** A mailing list of interested parties, contiguous property owners, elected officials, the DTSC mandatory mailing list, and other agencies/entities as appropriate must be developed and maintained throughout the project [40 CFR ' 124.10(c)(1)(ix)]; and
- " **Public notice:** A public notice describing the Temporary Authorization request within seven days after submittal of a Temporary Authorization must be sent to the DTSC-approved facility mailing list and be placed as a display ad in a newspaper of general circulation, as well as placed on DTSC's web site. The public notice must be written in a language appropriate to the affected community. [Title 22 CCR, Chapter 20 ' 66270.42 (e)(2)(c)]

## Public Participation Activities for a Temporary Authorization **Conducted by DTSC**

- " **Document inquiries:** All inquiries concerning the project will be documented and made part of the administrative record (DTSC policy);
- " **Monitor community interest:** Community interest/concerns will be monitored throughout the project (DTSC policy);
- " **Comply with California Environmental Quality Act (CEQA):** Concurrently with the permit activity; and
- " **Notification of decision to grant or deny temporary authorization to facility mailing list:** DTSC will notify persons on the facility mailing list and appropriate units of state and local government within 10 days of any decision to grant or deny a Class 2 or 3 Permit Modification or Temporary Authorization. The notice shall include reference of the procedures to appealing a decision. [Title 22, CCR ' 66270.42 (f)] (Consideration should be given toward placing this notice on DTSC's web site as well.)

## **FIVE-YEAR PERMIT REVIEW**

### **Background**

H&S Code 25200 (c) requires DTSC to review land disposal permits five years after issuance or re-issuance of a permit to assure that the facility is complying with statute and regulations, including any new regulations. The result of the review would necessitate permit modifications for any changes DTSC deems appropriate given the review. There are no statutory or regulatory requirements for public participation other than, upon completion of the review, if DTSC undertakes a permit modification.

The review is not intended to be the equivalent of a permit renewal, which has full public participation requirements.

### **Recommended Public Participation Activities for 5 year Review**

Recommended public participation activities include:

- briefing of key interested parties of the nature of the review,
- a fact sheet to the facility mailing list describing the nature and results of the review, including brief description of any resulting anticipated permit modifications and how the public can be involved in those, and
- placing the 5 year review in the public repository (ies).

## **CORRECTIVE ACTION**

RCRA required owners and operators of hazardous waste management facilities to clean up contamination resulting from current and past practices. The cleanup process, known as corrective actions, reduce risks to human health and the environment.

At the time of this manual update, there is currently no federal or state regulations addressing public involvement in corrective action. Since corrective action under RCRA is similar in many ways to cleanup under CERCLA (Federal Superfund), federal guidance strongly encourages equivalent public participation processes. Since California is a RCRA authorized state for corrective action, state guidance in this manual is consistent with federal guidance (RCRA Public Participation Manual).

Corrective action may take place in two different ways:

Under A RCRA permit or permit modification, or

As a RCRA enforcement order under 3008(h), or in authorized states such as California, corrective action may also take place under a state cleanup order, or another state cleanup authority. Orders may be used to get corrective action started in advance of a facility permitting action or when a facility is closing under interim status. Orders may be issued by consent (consent agreements) or unilaterally.

The basic elements in the corrective action process are outlined along with the associated public participation requirements. The corrective action elements do not always occur in linear order, so flexibility in the implementation of public participation may be necessary.

### **Corrective Action Under Permitting and 3008(h) Orders**

Corrective action may take place under a RCRA permit, permit modification, or as an enforcement order under ' 3008(h) of RCRA. In authorized states such as California, corrective action may also take place under a state cleanup order, or another state cleanup authority. Orders may be used to get corrective action started in advance of a facility permitting action or when a facility is closing under interim status. Orders may be issued by consent (consent agreements) or unilaterally.

**RCRA Facility Assessment (RFA):** initial assessment to determine if there have been releases or potential releases at a facility. If a conclusion is reached that there is a potential release, DTSC develops a **schedule of compliance** and includes it in the permit or order.

Public Participation Activities:

- " **Update or complete Community Profile:** If it appears the RFA will conclude additional corrective action is necessary a Community Profile shall be initiated

and completed prior to completion of the RFI. If the community around the facility has already been adequately assessed by DTSC, an update shall be completed. If the RFA concludes no further action is necessary because there has been no release, further public participation may not be required.

- " **Public availability of RFA:** RFA results should be made available upon request.
- " **Additional Public Participation Activities:** Based on the level of community interest, the PPS in consultation with the Project Manager may require:
  - ! Mailing list or update;
  - ! Fact sheet mailed to mailing list (and placed on DTSC's web site);
  - ! Initiation of Public Participation Plan;
  - ! Public notice in newspaper (and placed on DTSC's web site);
  - ! Public meeting or open house; and/or
  - ! Inclusion of RFA in repository
- " **RCRA Facility Investigation (RFI):** If the RFA concludes corrective action may be necessary, an RFI is conducted to further characterize the nature and extent of contamination. The RFI lays the basis for interim measures and remedy selection.

Public Participation Activities:

- " Community Profile or update;
- " Develop mailing list or update;
- " Develop a fact sheet summarizing the results of the RFI shall be produced and distributed to the facility mailing list. Since the RFI characterizes known releases, the community should be informed of the results, even if no further action is required.
- " **Additional Public Participation Activities:** Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager may require:

- ! Inclusion of RFI in repository;
- ! Public notice in newspaper (and placed on DTSC's web site);
- ! Public comment - On a high interest project, DTSC may solicit public comment on a draft RFI Workplan or on the draft RFI Report;
- ! Public meeting or open house;
- ! Public Participation Plan;

**Interim measures:** Interim actions may be taken to mitigate or remove ongoing risks to public health or the environment prior to final remedy selection, usually during the RFI or Corrective Measures Study (see below).

**Public Participation Activities:**

- " Mailing list or update;
- " Fact sheet mailed to mailing list and placed on DTSC's web site;
- " Public notice in newspaper and placed on DTSC's web site;
- " 30-day public comment period. The public should be given opportunity to comment on interim measures unless it's determined that the measure is of an emergency nature or that public review, comment, and response to comment might result in delays which could be a threat to public health or the environment;
- " Place documents in the information repository; and
- " Prepare a response to comment;
- " **Additional Public Participation Activities**
  - ! Public hearing;
  - ! Public meeting or open house;
  - ! Public Participation Plan; and/or
  - ! Work notification of interim measures implementation

**Corrective Measures Study (CMS):** The CMS is an evaluation of remedial alternatives upon completion of the RFI or equivalent characterization.

#### Public Participation Activities

- " Make CMS Workplan and CMS available for review upon request;
- " **Additional Public Participation Activities** - Based on the level of community interest, the PPS in consultation with the Project Manager can require:
  - " Mailing list update;
  - " Public notice in newspaper and on DTSC's web site;
  - " Fact sheet mailed to community and placed on DTSC's web site;
  - " Public hearing (if determined to be necessary or upon request);
  - " Set up or update an **information repository**;
  - " Prepare a response to comments; and
  - " Public meeting or open house.

**Remedy selection:** After a preferred remedy is tentatively selected, DTSC solicits public review and comment either through a department initiated permit modification or through an order. After considering and responding to public comment, DTSC either adopts the remedy, adopts it with changes or reconsiders other alternatives.

#### Public Participation Activities

The public participation requirements are the same for preferred remedy as for a draft permit (66271.5 et seq).

- ! Mailing list update;
- ! Public notice in newspaper and on DTSC's web site;
- ! Fact sheet mailed to community and placed on DTSC's web site;

- ! Public hearing (if determined necessary or upon request);
  - ! 45-day review and comment period;
  - ! Repository;
  - ! Response to comments; and
  - ! Notification of final decision.
- " **Additional Public Participation Activities:** Based on the level of community interest, the PPS in consultation with the Project Manager may require:
- ! Public meeting or open house;
  - ! Extended public comment period.

#### **Corrective Measures Implementation (CRI) Requirements:**

- " **Work Notification:** Work notification describing the nature of the work, the dates, hours of work, any impacts on surrounding neighborhood, should be made available to the surrounding neighborhood and, if high interest, to the facility mailing list.
- " **Additional Public Participation Activities:** Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager may require:
- ! Public meeting;
  - ! Placement of remedial design plans in repository;
  - ! Fact sheet mailed to community and placed on DTSC's web site;
  - ! Public notice in newspaper and placed on DTSC's web site; and
  - ! Mailing list update.

#### **Remedy Completion**

**The RCRA Public Participation Manual states it is EPA policy for the public to be given an opportunity to review and comment on all proposals to complete**



**corrective action. Consistent with federal guidance, DTSC, by policy, requires public review and comment. Procedures for a Class 3 permit modification should be followed prior to certifying completion of a corrective action remedy.**

## **Public Participation Under Code of Federal Regulations (CFR) 3008(h) Orders**

Public participation under enforcement orders requires special considerations:

- " **Limitations on public release of information:** Confidentiality of certain information must be maintained when DTSC is negotiating a consent agreement with a facility or when drafting a unilateral order. Close coordination with legal and permitting staff is necessary before providing information to the public regarding corrective action. Generally, this would be of concern early in the process, before the order is issued. However, additional constraints may be placed on information release if the facility fails to adhere to the order and further litigation is required.
- " **RCRA 3008(H) does not specify public participation:** It is federal and state policy to include the same public participation requirements in an order as are required under permitting. DTSC has well established practice of conducting public participation throughout the corrective action process.
- " **Unilateral Orders vs. Consent Agreements:** Under consent agreements, to the extent practical, DTSC may require the facility to conduct or participate in many of the public participation activities. For example, preparing or maintaining a facility mailing list for DTSC approval, or establishing and maintaining the public repository. Under a unilateral order, however, circumstances may warrant that DTSC conduct most or all public participation activities associated with the corrective action.

## **Statewide Compliance Division**

### **Required Public Participation Activities**

Public Participation should be coordinated with for the following processes:

- " When a treatment, storage, and/or disposal (TSD) facility is cited for violations of hazardous waste laws or regulations; and,
- " During a small site clean up conducted by the State Compliance Division (SCD) using limited remedial measures.

## **Violations**

Upon completion of an investigation by State Compliance Division, where violations are identified and fines/penalties will be levied against a Treatment Storage and Disposal (TSD) facility, the SCD staff, at the same time or before notifying the DTSC Information Officer (IO) for preparation of a press release, shall notify and consult with the appropriate PPS.

If the facility has had Ahigh@or Amoderate@community interest in previous permitting activities, it is likely there are key community members who should be informed individually and simultaneously to the appearance of a newspaper article announcing DTSC's assessment of penalties. Timing is critical, and key interested parties should be notified in a manner other than the newspaper.

A communications strategy may be developed between the program staff, the Information Officer, and the PPS to coordinate the release of information. Phone calls or fact sheets are the most commonly used method to notify interested parties of violations at a treatment storage and disposal facility. **It should be stressed that this kind of information may be confidential and close coordination with compliance and legal staff is required in conducting public participation.**

## VARIANCES

DTSC has the authority to grant a variance from Title 22 permitting requirements for activities not regulated under RCRA if 1) the activity does not pose a potential hazard; or 2) the activity is adequately regulated by another agency. Each variance is considered on a case-by-case basis, and will not be issued for activities more appropriately authorized under a permit. The decision to grant or deny a variance is at DTSC's discretion. Each variance is public noticed in the California Z-Register which is published by the Office of Administrative Law [HSC Section 25143 (f)]. Variances do not require public participation activities; however, depending on the level of community interest, additional activities may be necessitated. CEQA must be complied with when issuing a variance. **If a negative declaration is prepared pursuant to CEQA for the variance then appropriate CEQA public participation activities must be conducted (public notice, 30-day comment period - see Chapter 5 of this manual.)**

Activities required at the discretion of the PPS in coordination with project management staff based upon an assessment of community interest:

" Phone log;

" Document inquiries;

- " Community assessment;
- " Inform other agencies;
- " Brief local officials;
- " Information letter;
- " Flyer mailed to community and placed on DTSC's web site;
- " Newspaper legal notice which is also placed on DTSC's web site;
- " 30-day public comment period;
- " Notice of Final Decision;
- " Monitor community interest.

Draft